

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ROD BITNEY**, on February 24, 2003 at 3:00 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Rod Bitney, Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Alan Olson, Vice Chairman (R)
Rep. Dee Brown (R)
Rep. Eileen J. Carney (D)
Rep. Tim Dowell (D)
Rep. Daniel Fuchs (R)
Rep. Hal Jacobson (D)
Rep. Jeff Laszloffy (R)
Rep. Scott Mendenhall (R)
Rep. John Parker (D)
Rep. Diane Rice (R)
Rep. Brennan Ryan (D)
Rep. Jim Shockley (R)

Members Excused: None.

Members Absent: None.

Staff Present: Glenna McClure, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 570, 2/10/2003; HJ 26,
2/13/2003; HJ 30, 2/18/2003; HB
702, 2/19/2003
Executive Action: HJ 26; HB 570; HB 702; HJ 30; HB
641; HB 700

HEARING ON HJ 26

Sponsor: REP. CINDY YOUNKIN, HD 28

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 1.9 - 4.8}

REP. YOUNKIN said that this is the corresponding resolution to a bill that was heard previously regarding the Hydrogen Futures Project. Hydrogen fuel cells are the wave of the future. We have everything that we need in this state to produce hydrogen fuel cells. She distributed a letter from Bob Vogel of the Montana School Boards Association. There is a suggested amendment that she said would be appropriate.

EXHIBIT (feh41a01)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 4.8 - 6}

REP. YOUNKIN said that this is good for us to do. She said that she would like to see that this concept is kept alive.

HEARING ON HJ 30

Sponsor: REP. JONATHAN WINDY BOY, HD 92

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 6 - 17.6}

REP. WINDY BOY said that he is also a Tribal leader. He said that this resolution requests that the White House of Faith-Based and Community Initiatives be encouraged to recognize that the spiritual practices of traditional Indian cultures are unique to each tribe, that tribal leaders at the local level be consulted in the implementation of any programs and that American Indian

Welfare Reform Act for the operation of public assistance by Indian Tribes be supported. He indicated that 48-51% of the welfare caseload are tribal members. He said that there hasn't been anything in the law that is tribal-specific. He shared that, although many times Indian culture is defined as a religion, it is really a way of life. It is important that the definition of the faith-based community be defined at the most local level at each tribe.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 17.6 - 21.8}

Tony Plummer-Alvernaz, said that the executive order that was written and signed by the President in the 1990's was to direct the religious sector to play a role in assisting low-income people. Because of the decrease in public funding, it was felt that the religious community could pick up those who fell through the cracks. There was no communication with the tribes regarding the tribes's role. This bill puts the control back into the tribal communities. It gives the tribes a choice in how the faith-based initiatives will play out in Montana. This resolution indicates that Montana supports the Indian Welfare Act.

Opponents' Testimony: None

Informational Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 21.8 - 22.3}

Hank Hudson, Department of Public Health and Human Services, said that he was available as a informational witness if anyone had questions.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 22.3 - 23.8}

REP. BROWN asked Ms. Alvernaz how she viewed this as being a possible separation of church and state issue.

Ms. Alvernaz said that because it is a cultural way of life, they observe the Indian traditions.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 23.8 - 26}

REP. WINDY BOY said that there is no Fiscal Note on this bill.
He wished for a do pass recommendation.

HEARING ON HB 702

Sponsor: REP. RICK MAEDJE, HD 81

Opening Statement by Sponsor:

***{Tape: 1; Side: A; Approx. Time Counter: 26 - Tape: 1; Side: 2;
1.5}***

REP. MAEDJE said that this bill allows for the County Attorney, private industry, and the public to have an agreed upon attorney to represent the people of the county in federal land use litigation and administrative appeals. He then read the bill.

EXHIBIT (feh41a02)

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 1.5 - 2.9}

Bob Fisher, representing himself, said that he is a geologist in the oil and gas industry. He said that he is here in support of this bill.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 2.9 - 13}

REP. OLSON asked if the sponsor would be amenable to an amendment on Line 15, to add "oil and gas exploration" after the word "mining."

REP. MAEDJE said that he would be amenable to that amendment.

REP. SHOCKLEY asked the sponsor if he was aware that the counties could already do this.

REP. MAEDJE said that the concern is that the attorney would be used for purposes other than what the industry wanted.

REP. CARNEY asked the sponsor to explain Rule 11.

REP. MAEDJE said that Rule 11 is a deterrent to filing non-meritorious allegations. It is a sanction that the judge can place on the person filing the allegations.

REP. DOWELL asked if this would be paid for by taxpayers' dollars.

REP. MAEDJE said that it doesn't have to be. This bill gives the counties the option to set up a separate account created by individuals.

REP. PARKER asked the sponsor if he had consulted with the Montana County Attorney's Association prior to drafting the bill.

REP. MAEDJE said that the attorney position would be attached to the Board of County Commissioners and not the County Attorney Office.

REP. PARKER referred to the section of the code that provides that the County Attorney is to be the legal advisor to the County Commissioners and asked the sponsor if this wouldn't be adding something that is already provided for in the code.

REP. MAEDJE said that this bill is to provide for an attorney to be counsel for the issues that the county doesn't need advice on per se.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 13 - 13.8}

REP. MAEDJE said that this is intended to be a pilot program and the Governor is in support of the bill.

EXECUTIVE ACTION ON HJ 26

{Tape: 1; Side: B; Approx. Time Counter: 13.8 - 18.2}

Motion: **REP. RYAN** moved that HJ 26 DO PASS.

Discussion:

There was some discussion regarding HJ 26.

REP. RICE said that Ken Nortvedt was unable to be there and wanted the committee to know that he opposed the bill.

Motion/Vote: **REP. OLSON** moved that HJ 26 BE AMENDED TO INCLUDE THE CONCEPTUAL AMENDMENTS PROPOSED BY THE MONTANA SCHOOL BOARD ASSOCIATION. Motion carried unanimously by voice vote.

Motion/Vote: **REP. OLSON** moved that HJ 26 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

HEARING ON HB 570

Sponsor: **REP. GAIL GUTSCHE, HD 66**

Opening Statement by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 18.2 - 22.5}

REP. GUTSCHE said that this bill changes the configuration of the Board of Oil and Gas. It would include an industry representative, a landowner without mineral rights in an oil or gas-producing county, a member of an irrigation district from an oil or gas-producing county, a hydrologist, a tribal member, a conservationist and a county commissioner from where the oil or gas production is occurring. She said that it will be important to have an hydrologist on the Board when there is more activity in Coal Bed Methane.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 22.5 - Tape: 2; Side A; 2.9}

Clay Hall, Gallatin County Resident, said that he and his neighbors are concerned about the effects of Coal Bed Methane development in their area. He said that it is his impression that the Board of Oil and Gas is a rubber stamp for out-of-state oil and gas interests. The purpose of the Board is to prevent wasted oil and gas resources, conserve oil and gas by effective recovery, to protect the rights of mineral owners, and to seek to prevent the oil and gas operations from harming nearby land or underground resources. There needs to be people on the board

that have the credentials and expertise to watch out for the interests of the people of Montana.

Ann Hedges, Montana Environmental Information Center, distributed a sample of Montana Advisory Boards and Commissions. She said that these boards are diverse.

EXHIBIT (feh41a03)

Julia Page, Northern Plains Resource Council, said that they support this bill. She said that there will be more balance and more informed decisions with the mix of members proposed in this bill.

Susan McGrath, Bozeman, said that she was here in support of this bill.

REP. CAROL JUNEAU, HD 85, offered her support of this bill. She came in later in the hearing and wanted to make sure that she was on record supporting this bill. She was particularly interested in having a Tribal member be represented on the Board.

Opponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 2.9 - 22.2}

Gail Abercrombie, Executive Director, Montana Petroleum Association, said that they were here in opposition of this bill. The Board is a quasi-judicial Board consisting of seven members appointed by the Governor. Five members are designated and two are at-large members. There are currently three members from industry, landowners with and without mineral rights, and the at-large members are from diverse geographic areas. The Board of Oil and Gas has two meetings. The first meeting is the business meeting. There is a public comment period. The other hearing is on Thursdays where witnesses are sworn-in. She said that the Board has been operating well.

Dave Ballard, Billings, Geophysicist, and Member of the Board of Oil and Gas, said that he has had the opportunity to observe the board over the past ten years. He provided written testimony.

EXHIBIT (feh41a04)

Bob Fisher, Geologist, Ballard Petroleum, provided a written copy of his testimony.

EXHIBIT (feh41a05)

Patrick Montalban, Lobbyist, Western Montana Oil and Gas

Association, said that he is also a geologist. He opposes HB 570. He said that the change in this Board is only because of the development of Coal Bed Methane. He went over the history of the board. He shared how these boards are configured in the surrounding states and Canada.

CHAIRMAN BITNEY indicated that time for opponents was expired. He asked that further opponents state their name and who they were representing for the board.

Joe Icenogle, Fidelity Exploration and Production Company, said that he was in opposition of this bill.

Willie Duffield, Montana Association of Oil, Gas and Coal Counties, said that he represents 99 county commissioners, of which, none would like to be appointed to this board.

Informational Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 22.2 - Tape: 2; Side B, 1.0}

Tom Richmond, Montana Board of Oil and Gas, distributed three handouts. He went over some of the handouts.

EXHIBIT(feh41a06)

EXHIBIT(feh41a07)

EXHIBIT(feh41a08)

REP. JUNEAU testified in support of this bill. See Page 7.

Questions from Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Counter: 1 - 22.5}

REP. OLSON asked Ms. Hedges if it was the Department of Environmental Quality that issued water discharge permits.

Ms. Hedges was not sure.

REP. OLSON asked the same question of Ms. Page.

Ms. Page said that she was not sure, but thought so.

REP. OLSON asked several questions of Ms. Page regarding the expertise of the proposed members and if they could understand a report that he had provided regarding oil and gas drilling.

Ms. Page indicated that she doubted anyone could decipher the report unless they had spent time reviewing such a report. She reiterated that the mix of the proposed Board members would provided a more balanced group of individuals.

REP. SHOCKLEY asked the sponsor if she would agree to an amendment that would allow for an hydrologist and a member of the irrigation district to include expertise in Coal Bed Methane.

REP. GUTSCHE said that she would consider it. She concurred that those two positions are particularly important.

REP. PARKER asked if it were possible that the Governor could select a Tribal member as one of the at-large members.

REP. GUTSCHE said that she hoped that the Governor would pick all the members with the expertise needed to make decisions.

REP. FUCHS asked Ms. Page if she was inferring that, if the Board was made of this mix, these projects could have proceeded faster.

Ms. Page said that a full environmental review was not done by the Board of Oil and Gas as far as Coal Bed Methane development. It took a lawsuit by the Northern Plains Resource Council to force the state and federal government to do an Environmental Impact Statement. It could have been taken under consideration sooner.

REP. FUCHS asked Mr. Ballard for his response as chairman of the board.

Mr. Ballard said that the regulatory agency, Department of Environmental Quality (DEQ), was involved, so he felt there was no lack of oversight.

REP. FUCHS asked Mr. Ballard, "If this bill had passed in 1997, would there be any Coal Bed Methane development at this time?"

Mr. Ballard said that this bill would deter the movement of this development.

REP. CARNEY asked if landowners have the expertise to understand the information presented to them regarding oil and gas drilling.

REP. GUTSCHE said that hopefully the landowners have the technical expertise in this area.

REP. JACOBSON asked if the landowners were required to have technical expertise.

Mr. Ballard said there was no particular requisite that the landowner have a certain amount of knowledge. He said that there is a requirement of three years minimum experience for the industry representative, which is omitted from the bill. Not all members of the board have the same expertise.

REP. OLSON asked Mr. Ballard to reiterate the functions of the Board.

Mr. Ballard said that the Board of Oil and Gas monitors conservation issues and make sure that the operators are operating in an environmentally-friendly manner. It is a quasi-judicial board.

REP. OLSON asked Mr. Ballard to describe the make up of the advisory board put together during the lawsuit regarding the Coal Bed Methane issue.

Mr. Ballard referred to Mr. Richmond.

Mr. Richmond said that membership of the technical advisory committee consists of hydrologists from the Department of Environmental Quality, Department of Natural Resources Water Rights, Montana Bureau of Mines and Geology, Bureau of Land Management and from private practice.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 22.5 - 29.9}

REP. GUTSCHE said that Coal Bed Methane will be taking up a lot of the Board of Oil and Gas' time. One of the duties of the Board is to prevent oil and gas industry from harming nearby land and resources. The Governor still gets to appoint the members of this Board. This Board is quasi-judicial as is the Board of Environmental Review. The point of this bill is to bring a point of view from different sides. This bill will bring more balance and expertise to this Board.

EXECUTIVE ACTION ON HB 570

{Tape: 3; Side: A; Approx. Time Counter: 0.6 - 8.5}

Motion: REP. OLSON moved that HB 570 DO PASS.

Motion: REP. SHOCKLEY moved that HB 570 BE AMENDED.

Substitute Motion/Vote: REP. FUCHS made a substitute motion that HB 570 BE TABLED. Substitute motion carried 9-5 with REPS. CARNEY, DOWELL, JACOBSON, PARKER, and SHOCKLEY voting no in a roll call vote. REPS. BROWN and MENDENHALL voted by proxy.

EXECUTIVE ACTION ON HB 702

{Tape: 3; Side: A; Approx. Time Counter: 8.5 - 13.3}

Motion: REP. OLSON moved that HB 702 DO PASS.

Discussion:

There was discussion regarding the bill.

Substitute Motion/Vote: REP. DOWELL made a substitute motion that HB 702 BE TABLED. Substitute motion carried 12-2 with REPS. MENDENHALL and OLSON voting no by roll call vote. REPS. BROWN AND LASZLOFFY voted by proxy.

EXECUTIVE ACTION ON HJ 30

{Tape: 3; Side: A; Approx. Time Counter: 13.3 - 14.1}

Motion/Vote: REP. DOWELL moved that HJ 30 DO PASS. Motion carried 11-3 with REPS. FUCHS, MENDENHALL, and RICE voting no by voice vote.

EXECUTIVE ACTION ON HB 641

{Tape: 3; Side: A; Approx. Time Counter: 14.1 - Tape: 3; Side: B; 3.9}

Motion: REP. OLSON moved that HB 641 DO PASS.

Motion: REP. MATTHEWS moved that HB 641 BE AMENDED.

EXHIBIT(feh41a09)

Discussion:

Mary Vandenbosch explained the amendments. There was other discussion regarding the bill reiterating the role of each of the carriers.

Vote: Motion that HB 641 BE AMENDED carried unanimously.

Vote: Motion that HB 641 DO PASS AS AMENDED carried 13-1 with REP. BROWN voting no.

EXECUTIVE ACTION ON HB 700

{Tape: 3; Side: B; Approx. Time Counter: 3.9 - Tape: 4; Side: A; 7.0}

Motion: REP. OLSON moved that HB 700 DO PASS.

Motion: REP. OLSON moved that HB 700 BE AMENDED.

EXHIBIT(feh41a10)

Discussion:

Mary Vandenbosch explained the amendments.

Vote: Motion that HB 700 BE AMENDED carried 9-5 with REPS. BROWN, CARNEY, DOWELL, JACOBSON, and PARKER voting no by voice vote.

Discussion:

There was some discussion on constitutionality of this bill.

Motion: REP. PARKER moved that HB 700 BE AMENDED.

EXHIBIT(feh41a11)

Discussion:

REP. SHOCKLEY suggested additional amendments, but later withdrew them.

There was much discussion regarding this bill and amendments.

Vote: Motion that HB 700 BE AMENDED carried 9-5 with REPS.
BROWN, FUCHS, LASZLOFFY, RICE, and BITNEY voting no by roll call
vote. REP. FUCHS voted by proxy.

Motion: REP. PARKER moved that HB 700 BE AMENDED.

EXHIBIT (feh41a12)

Discussion:

Mary Vandenbosch explained the amendments.

There was more discussion regarding the amendments.

Vote: Motion that HB 700 BE AMENDED failed 5-9 with REPS.
CARNEY, DOWELL, JACOBSON, PARKER, and RYAN voting aye by roll
call vote. REP. FUCHS voted by proxy.

Vote: Motion that HB 700 DO PASS AS AMENDED carried 9-5 with
REPS. CARNEY, DOWELL, JACOBSON, PARKER, and RYAN voting no by
roll call vote. REP. FUCHS voted by proxy.

ADJOURNMENT

Adjournment: 6:15 P.M.

REP. ROD BITNEY, Chairman

GLENNA MCCLURE, Secretary

RB/GM

EXHIBIT (feh41aad)